Supreme Court, U.S.
FILED
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(4)

No. 00-1614

IN THE

# Supreme Court of the United States

NATIONAL RAILROAD PASSENGER CORPORATION,
*Petitioner*,

v.

ABNER MORGAN, JR.,,
*Respondent*.

**On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit**

## JOINT APPENDIX

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PETITION FOR WRIT OF CERTIORARI FILED APRIL 23, 2001
CERTIORARI GRANTED JUNE 25, 2001

13 pp

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

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3:96-cv-3585

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MORGAN,

*Plaintiff*,

v.

NATIONAL RAILROAD, *et al.*,

*Defendants*.

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## RELEVANT DOCKET ENTRIES

| DATE | NO. | PROCEEDINGS |
|---|---|---|
| 10/2/96 | 1 | COMPLAINT Summons (es) issued; Fee status pd entered on 10/2/96 in the amount of $120.00 ( Receipt No. 802490); jury demand [3:96-cv-03585] (wk) [Entry date 10/04/96] |
| 8/4/98 | 91 | DECLARATION by Michael Williams on behalf of Plaintiff Abner J. Morgan Jr. re opposition [90-1] [3:96-cv-03585] (cgd) [Entry date 08/05/98] |
| 8/4/98 | 92 | DECLARATION by Arthur Elwood Conley on behalf of Plaintiff Abner J. Morgan Jr. re opposition [90-1] [3:96-cv-03585] (cgd) [Entry date 08/05/98] |
| 8/4/98 | 93 | UNDER SEAL DECLARATION by Pamela Y. Price on behalf of Plaintiff Abner J. Morgan Jr. re opposition [90-1] [3:96-cv-03585] (cgd) [Entry date 08/05/98] [Edit date 08/19/98] |

| DATE | NO. | PROCEEDINGS |
|---|---|---|
| 8/4/98 | 98 | DECLARATION by Joe George on behalf of Plaintiff Abner J. Morgan Jr. re opposition [97-1] [3:96-cv-03585] (cgd) [Entry date 08/05/98] |
| 8/4/98 | 99 | DECLARATION by Meriola Gotthardt on behalf of Plaintiff Abner J. Morgan Jr. re opposition [97-1] [3:96-cv-03585] (cgd) [Entry date 08/05/98] |
| 8/4/98 | 100 | DECLARATION by Robert Ramirez on behalf of Plaintiff Abner J. Morgan Jr. re opposition [97-1] [3:96-cv-03585] (cgd) [Entry date 08/05/98] |
| 8/6/98 | 106 | AMENDED DECLARATION by Abner J. Morgan on behalf of Plaintiff re opposition [105-1] [3:96-cv-03585] (cgd) [Entry date 08/11/98] |
| 9/11/98 | 119 | ORDER by Judge Susan Illston : the Court GRANTS defendant's motion for summary judgment on Morgan's claims regarding: (1) alleged discrimination or retaliation which occurred prior to the 300-day limitations period or 5/3/94; (2) posting the notice of the grievance in early 1995; (3) denial of Morgan's bid for job number 515 in 1995; (4) denial of jury duty pay in 1994 and 1995; (5) denial of access to work files in 12/94; and (6) denial of union representation in 12/94. Finding there are triable issues of fact, the Court hereby DENIES defendant's motion for summary judgment on Morgan's claims regarding: (1) the September 1994 suspension; (2) the Feb. 1995 suspension |



| DATE | NO. | PROCEEDINGS |
|---|---|---|
| | | and termination; and (3) cancellation of training in Oct. 1994. [66-1], [66-2], [54-1], [54-2]. ( Date Entered: 9.15.98) (cc: all counsel) [3:96-cv-03585] (cgd) [Entry date 09/15/98] |
| 10/13/98 | 160 | OPPOSITION by Plaintiff Abner J. Morgan Jr. to Defendant's motion in limine to exclude any evidence concerning time-barred claims [135-1] [3:96-cv-03585] (cgd) |
| 10/14/98 | 176 | FINAL PRETRIAL SCHEDULING ORDER by Judge Susan Illston—(see order dated 10/14/98 for details). Motions in limine: the parties filed 14 motions in limine as follows: Plaintiff's motions ; granting motion in limine to exclude impermissible character evidence re: Amtrak employees [127-1], granting motion in limine to exclude evidence re: marijuana use, prior EEO complaints and military discharge [128-1], granting in part and denying in part motion in limine to exclude evidence re: quasi-judicial proceedings [129-1] DENY as to internal AMTRAK investigations pursuant to collective bargaining agreement, for reasons set out by defendant in its opposition and GRANTED as to EEOC "unable to conclude" letter based on FRE 403, granting motion in limine to exclude settlement discussions [126-1], denying motions in limine to exclude evidence re defense experts [143-1], [139-1], Defendants' Motions : granting motion in limine to exclude the testimony of |

| DATE | NO. | PROCEEDINGS |
|---|---|---|
| | | Sophenia Maxwell, Robert Ramirez and Diane Sanchez [138-1], denying motion in limine to exclude evidence of stray remarks [136-1], denying motion in limine to exclude witnesses and evidence not disclosed by 10/5/98 [133-1], granting motion to bifurcate punitive damages [131-1], granting in part and denying in part motion in limine to exclude any evidence concerning time-barred claims [135-1], granting motion in limine to exclude in admissible lay opinion testimony and speculation by others as to Amtrak's "state of mind" [132-1], granting motion in limine to exclude evidence of prior consent decrees [137-1] ( Date Entered: 10.15.98) (cc: all counsel) [3:96-cv-03585] (cgd) [Entry date 10/15/98] |
| 10/26/98 | 199 | TRIAL MINUTES: ( C/R Rhonda Aquilina) ( Hearing Date: 10/21/98) Jury trial began 8:30 10/21/98. Voir dire began 10/21/98. Further trial 10/22/98 at 8:30a.m. Trial witnesses, etc., jury selected. [3:96-cv-03585] (dcap) [Entry date 10/27/98] |
| 11/19/98 | 239 | SPECIAL VERDICT for Defendants National Railroad Passenger Corp. dba AMTRAK against Plaintiff Abner J. Morgan Jr. [3:96-cv-03585] (cgd) [Entry date 11/23/98] |
| 11/19/98 | 240 | JURY COMMENTS ON VERDICT. [3:96-cv-03585] (cgd) [Entry date 11/23/98] |
| 11/20/98 | 247 | TRIAL MINUTES: ( C/R Rhonda Aquilina) ( Hearing Date: 11/17/98) Trial held ; |



| DATE | NO. | PROCEEDINGS |
|---|---|---|
| | | further trial 11/18/98 at 8:30a.m. Defendants' Rule 50(a) motion—Denied. Jurors were given final jury instructions. Counsel provided their closing statements. Jury out for deliberations. [3:96-cv-03585] (cgd) [Entry date 11/23/98] |
| 11/24/98 | 253 | JUDGMENT: Pursuant to the Special Verdict dated 11/19/98, judgment shall be entered in favor of defendant National Railroad Passenger Corp. dba Amtrak, and against plaintiff Abner J. Morgan, Jr. by Judge Susan Illston dismissing case ; appeal filing ddl 12/28/98. ( Date Entered: 11.25.98) (cc: all counsel) [3:96-cv-03585] (cgd) [Entry date 11/25/98] |
| 3/3/99 | 275 | NOTICE OF APPEAL by Plaintiff Abner J. Morgan Jr. from Dist. Court decision verdict [239-1] Fee status Paid, $105.00 (rec. no. 135087) ; did not submit civil appeals docketing statement. [3:96-cv-03585] (cgd) [Entry date 03/05/99] |

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

[Filed Nov 24, 1998]

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No. C 96-03585 SI

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ABNER J. MORGAN, JR.,
*Plaintiff,*

v.

NALT'L RAILROAD PASSENGER,
*Defendant.*

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JUDGMENT

This action came on for trial before the jury, the Honorable Susan Illston, United States District Judge presiding. The issues having been tried before the Court and a special verdict rendered on November 19, 1998.

IT IS ORDERED AND ADJUDGED that pursuant to the special verdict, judgment shall be entered in favor of defendant National Railroad Passenger Corp., dba Amtrak, and against plaintiff Abner J. Morgan, Jr.,

IT IS SO ORDERED.

/s/ Susan Illston
SUSAN ILLSTON
United States District Judge

Dated: 11/23/98



IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

[Filed Nov 19, 1998]

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No. C-96-3585 SI

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ABNER J. MORGAN, JR.,
*Plaintiff,*

v.

NALT'L RAILROAD PASSENGER, CORP.,
dba AMTRAK,
*Defendant.*

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SPECIAL VERDICT

We, the jury in the above-entitled action, find the following Special Verdict on the questions submitted to us:

I. Race Discrimination:

1. Did defendant AMTRAK discriminate against plaintiff Morgan because of his race, when plaintiff was suspended for fifteen days in September 1994?

Answer: Yes NO X

2. Did defendant AMTRAK discriminate against plaintiff Morgan because of his race, with respect to training in October, 1994?

Answer: Yes NO X

3. Did defendant AMTRAK discriminate against plaintiff because of his race, when plaintiff was terminated in February, 1995?

Answer: Yes NO X

II. Retaliation:

4. Did defendant AMTRAK retaliate against plaintiff Morgan because of his complaints about racial discrimination in the workplace, by subjecting him to an adverse employment action between May, 1994 and February, 1995?

Answer: Yes NO X

III. Harassment:

5. Was plaintiff Morgan subject to a hostile work environment because of racial harassment in the workplace between May, 1994 and February, 1995?

Answer: Yes NO X

If your answers to questions 1 through 5 were all "NO," please skip the rest of the questions, go to the end of the Special Verdict form, and sign and date it. If your answer to any of questions 1 through 5 was "YES," please answer the next question.

6. Did plaintiff Morgan suffer any harm or injury which was caused by the discrimination, retaliation and/or harassment you found to have been committed by AMTRAK?

Answer: Yes NO

7. What amount of damages, if any, is plaintiff Morgan awarded against defendant AMTRAK as a result of harm or injury which you found to have been caused by the discrimination, retaliation and/or harassment you found to have been committed by AMTRAK? You may award damages for as many categories as you appropriate.

a. Past lost income: $ _____

b: Present value of future lost income $ _____

c: Non-economic damages $ _____

Total (a + b + c): $ _____



8. With respect to any act you found to constitute race discrimination, retaliation or harassment of plaintiff Morgan, was defendant AMTRAK's conduct malicious or in reckless disregard of plaintiff's right?

Answer: Yes NO

Dated: 11/19/98

/s/ Martha Mayo
MARTHA MAYO
FOREPERSON

C-96-3585 SI

ABNER MORGAN

v.

NATIONAL RAILROAD PASSENGER CORPORATION.,

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Nature of Case: Employment Civil Rights

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REFERRAL:

proof of service



SUPREME COURT OF THE UNITED STATES

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No. 00-1614

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NATIONAL RAILROAD PASSENGER CORPORATION,
*Petitioner*,

v.

ABNER MORGAN, JR.

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June 25, 2001
Case below, 232 F.3d 1008

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Petition for writ of certiorari to the United States Court of Appeals for the Ninth Circuit granted.